

Service Date December 31, 1992

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER of the Application)	UTILITY DIVISION
of U S WEST Communications for)	
Authority to Implement a Montana)	DOCKET NO. 90.12.86
Network Improvement and Rate)	ORDER NO. 5535h
Stability Plan.)	
In the Matter of the Application)	DOCKET NO. 89.8.28
of U S WEST Communications for)	
Authority to Offer Dual Service)	
as a Service Product.)	
In the Matter of the Application)	DOCKET NO. 89.8.35
of U S WEST Communications for)	
Authority to add Integrated)	
Services Digital Network to its)	
Montana Tariff.)	
In the Matter of the Application)	DOCKET NO. 89.9.29
of U S WEST Communications for)	
the Addition of Six New Custom)	
Calling Features (Open Network)	
Architecture (ONA)).)	
In the Matter of the Application)	DOCKET NO. 90.5.32
of U S WEST Communications for)	
Authority to Add Digital Switched)	
Services to its Montana Tariff.)	

ORDER ON MOTIONS FOR RECONSIDERATION

Introduction

1. On December 14, 1992, U S West Communications (USWC) filed a motion for reconsideration of the Commission's final order in this docket (Order No. 5535g). MCI Telecommunications Corporation (MCI) and Montana Consumer Counsel (MCC) timely served separate motions for reconsideration on the same day. At regularly scheduled work sessions on December 19 and 21-22, 1992, the Commission considered these motions.

2. MCC's motion for reconsideration, concerning the Commission's ratemaking treatment of costs associated with Other Post-Employment Benefits, was denied by virtue of a 2-2 split vote.

Chairman Oberg and Commissioner Anderson voted in favor of granting reconsideration, Commissioners Macy and Mercer voted against, with Commissioner Driscoll absent. The Commission subsequently granted reconsideration of the USWC's and MCI's motions. The following is a discussion of the issues presented in these two motions.

USWC: Cost of Service Issues

3. USWC's motion covers six specific issues, but only requests changes on five. The six issues involve cost of service (COS) and rate design (RD). The three COS issues include cross subsidy definitions, nominal carrying charges, and residential basic exchange cross subsidies. The three RD issues concern imputation (2) and late payment charges.

4. Cross Subsidy Definitions. USWC's motion "believes" that the Commission should conform its definition of cross subsidies with the Commission's apparent intent. Thus, "fixed common costs" should be replaced with "fixed joint costs." USWC interprets "common" with respect to each and every telecommunications service.

5. The Commission finds that the issue is not ripe for a decision at this time. USWC is aware that the issue of total service long run incremental (TSLRIC) costing and any associated terminology will be fleshed out in the next USWC cost of service docket. That said, the way the Commission used "common" in the cited finding of fact was to refer to costs that are both avoidable and common to two or more services. Assuming USWC's interpretation of the word "joint" is the same, then there only appears a semantical difference. This is the Commission's understanding of the issue. Otherwise the Commission would not have carefully chosen the words it used in Finding of Fact 173. There would appear more than a semantical difference had the Commission not said "avoidable fixed common costs to two or more services..." (emphasis added)

6. However, the apparent inconsistency between USWC's assertion that common costs are only 19 percent of total costs, with the fact that USWC's total LRICs are closer to 50 percent of the allowed revenue requirement should be explained in USWC's next cost of service docket (see USWC Exh No. 15, page 23, for the 19 percent figure and USWC's proprietary data responses for the

relation between total incremental costs and the embedded revenue requirement).

7. Nominal Carrying Charges. The USWC's motion urges the Commission to consider the real carrying charge (RCC) or nominal carrying charge (NCC) issue in the next cost of service docket and delete any directive that RCCs be used in the interim. USWC's motion on this issue contains a number of assertions or arguments on why nominal carrying charges should be used in cost of service.

8. The Commission's findings on this issue are multifold. First, USWC should interpret the words "conditionally" and "with reservation," as they appear respectively in Findings of Fact 181 and 184, to mean "reluctantly." That is, there is no inconsistency in finding an apparent flaw in, and conditional acceptance of, USWC's cost studies, and the Commission's concomitant interest in stating USWC must correct the flaw.

9. USWC appears to favor an alternative approach whereby this docket would not be used to require the use of RCCs although USWC's use of NCCs results in a flaw that biases the resulting cost estimates. USWC would then file NCCs, again, and the Commission would be where it was in Docket No. 88.1.2 and again in this docket. This alternative does raise a question about the usefulness of USWC's resulting cost studies for the purposes listed in Dr. Emmerson's direct testimony. Given USWC's illustration of the impact of using RCCs in place of NCCs, LRICs can increase 20 percent (see Motion, page 3).

10. Second, USWC's motion at page 4 states that the use of RCCs would have the effect of raising costs, LRICs presumably. One must carefully and properly interpret this to not mean costs in the embedded revenue requirement sense, but rather the LRICs for price floor reasons. In fact, this argument is the reason the Commission is concerned about the continued use of NCCs. A 20 percent increase in LRICs may impinge on the prices USWC would otherwise charge.

11. Third, USWC argues that it makes no difference whether one uses RCCs or NCCs because the net present value (NPV) is the same (see Motion, page 3). This, however, is a non sequitur. USWC is fully aware that a single cost study, for the various cost functions underlying prices, is not done in say 1992 and then

revisited 15 or 20 years later when the assumed accounting or economic life of the plant, for which LRIC was computed, ends. Rather, USWC will redo and submit cost studies at much more frequent intervals. At each interval, new cost estimates will be used and the clock, so to speak, will be reset to year number one, if RCCs are used. Thus, it makes a difference that real and nominal carrying charges differ, especially given the 20 percent magnitude illustrated by USWC itself.

12. Last, USWC's argument, that the rationale for using RCCs or NCCs, turns on whether the firm is a single- or multiproduct firm is an incorrect argument for numerous reasons. One must ask why PTI chose to use RCCs not NCCs, but that nominal not real is correct for USWC. More importantly, USWC's assertion that electric utilities are single-product firms is only true in a superficial sense; in the same superficial sense, telephone companies are also single-product firms. However, USWC's assertion is economically flawed; neither electric nor telephone utilities are single-product firms (see Bonbright et. al., page 23, 1988).

13. The Commission's decision is to change its decision mandating RCCs be developed and used to annualize costs. This is not to mean the Commission will not require RCC testimony in USWC's next docket. It is clear USWC's continued use of NCCs impacts, very likely downward, the cost-based price floors for competitive services. Since the Montana Telecommunications Act's (MTA) public interest objective is to encourage competition, the impact of discouraging competition due to the use of NCCs must be known. Thus, the Commission hereby orders USWC to perform and submit direct testimony that contains a competitive impact analysis of using NCCs in place of RCCs. Such an analysis, at a minimum, must explain the impact on cost-based price floors for USWC's services that face competitive suppliers. Although the regulated electric and gas utilities, and PTI, use RCCs in Montana, the Commission permits, albeit reluctantly, USWC to use NCCs in its direct testimony.

14. Cross Subsidies: Residential Basic Access. USWC's motion on this issue does not contain a request, nor any suggested change in the Commission order. Rather, USWC's motion only contains a rhetorical comment. Unfortunately, the comment is logically

flawed, perhaps to change the Commission's decision on the avoidability of the drop line in USWC's cost studies.

15. The Commission chooses to respond to the logic of USWC's comment on this issue, but only for the purpose of correction and clarification. USWC's comment clearly confuses accounting costs used to develop revenue requirements and marginal costs used to develop LRICs. The Commission will explain why USWC's findings are confused.

16. First, it matters not how USWC handles the investments it has made over the last fifty or so years for purposes of computing LRICs for future time periods. Whether USWC's expenses or capitalizes drop line costs has no bearing on whether the same plant is "fungible," to use Dr. Emmerson's words. LRICs focus on avoidable future costs, not sunk historic costs. In this regard, USWC is advised to carefully reread its own testimony filed by Dr. Emmerson, especially those parts cited in Order No. 5535g.

17. Second, the Commission's decisions on LRICs do not, by any means, implicate whether USWC's investments in distribution plant over the past fifty or so years were prudent or used and useful. This is not the point of LRIC studies.

18. In summary of this issue, the Commission's initial findings remain. Drop lines do not have an avoided cost if a customer discontinues phone service. Thus, USWC's drop line cost estimates have no place in proper LRIC estimates of business and residence basic access line costs.

Rate Design Issues

19. Imputation. USWC's motion on the issue of imputation contains two specific requests for reconsideration. First, USWC suggests that the word "identical" be replaced with "similar" in finding of fact 200. In the alternative, USWC requests findings of fact 199 and 200 be eliminated. The thrust of this first part of USWC's imputation motion is that access services (carrier type access) and toll services are not "identical."

20. The Commission grants USWC's request to strike findings of fact 199 and 200. Whether carrier access and subscriber access services are identical is not the question so much as whether monopoly service prices (components of carrier access) should be

imputed into substitute competitive toll service prices. They should, and the reasoning to do so is not contingent on the identicalness of the two types of services, so much as it is contingent on the identicalness of the underlying functions. Granting of this aspect of USWC's imputation motion has no bearing on the merit or method of imputing carrier access charges or Independent Local Exchange Company (ILEC) prices into competitive toll service prices that was required when findings of facts 199 and 200 were included in Order No. 5535g.

21. USWC asks the Commission to recognize that, regardless of the existence or non-existence of any mandate to do so, USWC has been acting as the designated carrier. The argument presented by USWC in support of its request to exclude originating ILEC access charges from the imputation calculation was that it is "required" to be the designated carrier of last resort in ILEC exchanges (USWC's Reply Brief, p. 3). Finding of Fact 243 correctly states that no Montana statute, administrative rule or Commission order imposes such requirement. The fact that USWC may have been acting as the designated carrier of last resort or that it has private contracts obligating it to provide toll service is irrelevant to the contention that it is required to act in such a capacity. The Commission therefore affirms Finding of Fact 243.

22. Late Payment Charges USWC's motion on this issue is short and to the point: there exists no evidence in the record on which the late payment charge (LPC) threshold can be raised to \$45.00.

23. The Commission finds that it has ample reason to raise the LPC threshold to \$45. USWC was fairly advised of the Commission's interest in this rate change. The Commission finds, after USWC has had ample opportunity to rebut, that it is in the public interest to raise the LPC threshold to \$45.

MCI's Motions For Reconsideration

Cost of Service

24. MCI's single cost of service motion seeks clarification on the use of total service long run incremental costs (TSLRIC) and building block costing (BBC). Each aspect of MCI's cost of service motion will be restated, followed by a Commission decision.

25. First, at page 4 of its motion, MCI asserts that a proper marriage is of TSLRIC and BBC, not LRIC and BBC, adding that building blocks is both a costing and pricing issue.

26. There apparently are at least two, and possibly more, BBC concepts. On one hand, there is the evolving Oregon BBC concept. Then, given Dr. Bowman's Rebuttal Testimony (see pages 2-12), it is obvious at least one other BBC concept exists, that which USWC used in the current docket. Finally, Dr. Emmerson's Rebuttal testimony (page 8) asserts Mr. DiTirro proffered a unique BBC approach, one that does not fit the public interest. Thus, it is clearly premature on the Commission's part to conclude there exists a singular correct BBC concept to marry to TSLRIC. Nor is there, apparently, a singular TSLRIC definition as the below finding illustrates. Decisions on these matters must await USWC's next cost of service docket.

27. Second, MCI is puzzled by the Commission's insistence that it is not clear whether USWC concedes the merits of applying TSLRIC (Findings of Fact 160-169). The reason the Commission made this statement is related to the cited documents. Thus, it appears sufficient to reference Dr. Emmerson's Rebuttal testimony (see pages 6-8). This testimony, appears to the Commission to state that plant, which is jointly used to produce two or more services but which is fixed, has no place in a BBC application. That is, Dr. Emmerson does not appear to find TSLRIC objectionable, unless it is MCI's definition of TSLRIC. To the Commission's understanding, however, MCI's interpretation of TSLRIC includes such fixed-plant costs. Thus, the Commission concludes it is unclear whether USWC concedes the merit of applying TSLRIC. TSLRIC obviously means different things to different people.

28. If it is any comfort to MCI, the Commission is not passing judgment, in this docket, on the merit of any particular type of TSLRIC. TSLRIC, of all varieties, like BBC, will have its day in a contested case proceeding. Hopefully in that proceeding opinions such as Dr. Emmerson's can be subject to rigorous discovery by MCI to determine whether USWC has full-fledged or only weak support for MCI's version of TSLRIC.

29. In summary, MCI should interpret these findings to enunciate the point made in Order No. 5535g: it is premature to

pass judgement on any particular type of BBC or TSLRIC approach. The Commission has conditionally approved USWC's LRIC and the variety of BBC used in this docket, both of which are open to debate in USWC's next cost of service docket.

Rate Design

30. MCI's two rate design motions involve the LS1/LS2 differential and the other common carrier (OCC) discount. Each is taken in turn. First, MCI's motion asks the Commission to not phase out the LS1/LS2 differential at this time. The second asks that the discount afforded OCCs not be eliminated.

31. The Commission finds merit in its initial decisions on these matters. The Commission received uncontradicted testimony that no cost bases exist to continue either the differential or the discount. MCI's arguments, in its motion, were not persuasive. It should be noted that the reasons for discontinuing the differential and the discount do not stem from any evidence on the degree of competition in the interLATA or intraLATA markets. Nor does the Commission's decision critically depend on any assumption of "arbitrage."

32. In summary, the Commission denies MCI's motion to maintain the LS1/LS2 differential and the existing OCC discount.

CONCLUSIONS OF LAW

1. USWC provides regulated telecommunications services within the State of Montana, Section 69-3-803, MCA, and is a regulated public utility pursuant to Montana law. Section 69-3-101, MCA

2. USWC is subject to the jurisdiction, supervision and control of the Montana Public Service Commission. Section 69-2-102, MCA

3. The PSC has provided adequate public notice and an opportunity to be heard herein, pursuant to the Montana Administrative Procedures Act. Title 2, Chapter 4, MCA

4. The revenue requirement, rate design and rate levels approved in this Order are just, reasonable, nondiscriminatory; and consistent with the applicable provisions of the Montana

Telecommunications Act. Sections 69-3-201, 69-3-330, and 69-3-801, et. seq. MCA

ORDER

IT IS HEREBY ORDERED that:

1. The motion for reconsideration of Montana Consumer Counsel is denied.
2. Order No. 5535g is modified to allow USWC to use Nominal Carrying Charges in its next cost of service docket. However, USWC is ordered to perform and submit direct testimony that contains a competitive impact analysis of the use of Nominal Carrying Charges rather than Real Carrying Charges.
3. Findings of Fact 199 and 200 in Order No. 5535g are stricken.

DONE AND DATED at Helena, Montana, this 30th day of December, 1992, by a 4 to 0 vote.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

DANNY OBERG, Chairman

WALLACE W. "WALLY" MERCER, Vice Chairman

BOB ANDERSON, Commissioner

JOHN B. DRISCOLL, Commissioner

ATTEST:

Kathlene M. Anderson
Commission Secretary

(SEAL)

NOTE: You may be entitled to judicial review in this matter. Judicial review may be obtained by filing a petition for review within thirty (30) days of the service of this order. Section 2-4-702, MCA.